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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,508	09/03/2003	Gcert Deroover	224105	4953

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LEYDIG VOIT & MAYER, LTD  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO, IL 60601-6731

EXAMINER
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JOHNSON, CONNIE P

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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12/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/654,508

Applicant(s)

DEROOVER ET AL.

Examiner

Connie P. Johnson

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. The remarks and amendment filed 9/24/2007 have been entered and fully considered.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
3. Claims 1-10 are presented.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 1 recites the limitation "wherein the solubilizing groups G<sup>1</sup> and G<sup>2</sup> are anionic " in line 3 of page 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by  
  
Munnely et al., U.S. Patent No. 6,893,797 B2.

Munnelly teaches a heat-sensitive printing plate composition comprising a substrate and an imageable layer. The substrate comprises a hydrophilic surface (col. 3, line 14). The imageable layer comprises an allyl-functional polymeric binder (col. 3, line 49). Munnelly specifically teaches using an alkaline develop (col. 13, line 5). Therefore, the allyl-functional polymeric binder is capable of solubilizing in the alkaline developer. The imageable layer also comprises an infrared-absorbing cyanine dye (col. 3, line 50). The cyanine dye is exemplified as formula (A) in column 6 of the reference. The cyanine dye comprises substituent groups  $R^{1a}$ ,  $R^{1b}$ ,  $R^{3a}$  and  $R^{3b}$ . Munnelly teaches that  $R^{1a}$  and  $R^{1b}$  may independently represent an alkyl, alkylsulfonate and an alkylcarboxylate group.  $R^{3a}$  and  $R^{3b}$  may independently represent an alkyl, COOR, OR and SR when R is an alkyl or aryl group. The substituent  $R^2$  may be an SR group wherein R is an aryl group as in instant claim 9. Munnelly also teaches that  $X_1$  and  $X_2$  independently represent a  $C(alkyl)_2$  group.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al., U.S. Patent No. 6,864,040 B2.

Muller teaches an IR-sensitive composition comprising a support and an infrared-sensitive layer. The support is subjected to a surface roughening treatment to hydrophilize the support (col. 14, lines 3-14). The infrared-sensitive layer comprises a polymer binder that is capable of solubilizing in an aqueous alkaline developer (col. 3, line 34). The IR-sensitive layer also comprises an infrared absorbing dye, such as formula (A) of the reference (col. 4, lines 20-25). The IR absorbing dye of the Muller reference meets the limitations of the infrared-light absorbing compound. Specifically,  $R^1$  is an alkyl or alkylsulfonate and  $R^3$  independently represent a carboxyl, hydroxyl or a sulfo group as in instant claim 10 (col. 4, lines 34-42). Muller teaches the groups as COOR, OR and SR when R is a hydrogen atom. Muller also teaches that  $R^1$  may be an alkyl with 1 to 4 carbons. The difference between the reference and the application is that Muller teaches a variety of groups as substituents in the infrared dye. However, it would have been obvious to one of ordinary skill in the art to use substituent groups, such as carboxyl, hydroxyl and sulfo groups because Muller teaches different combinations of the substituent groups are used to form a symmetrical infrared-absorbing dye as exemplified in the examples (col. 4, lines 65-67, col. 5, lines 1-8 and col. 6, lines 1-8).

#### ***Response to Arguments***

10. Applicant's arguments, filed 9/24/2007, with respect to the rejection(s) of claim(s) 1-10 under 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, new ground(s) of rejection are made herein.

The declaration filed under 37 CFR 1.132 was considered, however the rejections have been withdrawn.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Connie P. Johnson whose telephone number is 571-272-7758. The examiner can normally be reached on 7:30am-4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Connie P. Johnson  
Examiner  
Art Unit 1795

A handwritten signature in black ink, appearing to read "Connie P. Johnson", written in a cursive style.